

1 QUINN EMANUEL URQUHART & SULLIVAN LLP
2 Zachariah Summers (SBN 255284)
3 zachsummers@quinnemanuel.com
4 865 S. Figueroa St., 10th Floor
5 Los Angeles, California 90017
6 Telephone: (213) 443-3000
7 Facsimile: (213) 443-3100

8 (Additional Representing Attorneys Named In Signature Block)

9 *Attorneys for Defendants VIZIO, AmTRAN, TPV, and Innolux*

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 POLARIS POWERLED
14 TECHNOLOGIES, LLC

15 Plaintiff,

16 v.

17 VIZIO, INC., HON HAI
18 PRECISION INDUSTRY CO., LTD.
19 D/B/A FOXCONN TECHNOLOGY
20 GROUP, COMPETITION TEAM
21 TECHNOLOGY USA INC., TOP
22 VICTORY ELECTRONICS
23 (TAIWAN) CO. LTD., TOP
24 VICTORY INVESTMENTS LTD.,
25 TPV TECHNOLOGY LTD., TPV
INTERNATIONAL (USA), INC.,
TREND SMART AMERICA, LTD.,
INNOLUX CORP., INNOLUX
USA, INC., AMTRAN
TECHNOLOGY CO., LTD.,
AMTRAN LOGISTICS, INC., and
NEWEGG, INC.,

26 Defendants.

12 Case No. 2:23-cv-03478

13 **DEFENDANTS' MOTION FOR
14 LEAVE TO FILE
15 SUPPLEMENTAL RESPONSE
16 TO PLAINTIFF'S RESPONSIVE
17 CLAIM CONSTRUCTION
18 BRIEFING**

19 Judge: Honorable George Wu
20 Date: April 4, 2024
21 Time: 8:30 a.m.
22 Courtroom: 9D

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE THAT ON April 4, 2024 at 8:30 a.m., or as soon
4 thereafter as the matter may be heard before the Honorable George Wu in Courtroom
5 9D of the United States District Court for the Central District of California, Los
6 Angeles Division, located at 350 West 1st Street, Los Angeles, CA, 90012,
7 Defendants VIZIO, Inc. (“VIZIO”), and Hon Hai Precision Industry Co., Ltd. d/b/a
8 Foxconn Technology Group, Competition Team Technology USA Inc. (collectively,
9 “Foxconn”), Top Victory Electronics (Taiwan) Co. Ltd., Top Victory Investments
10 Ltd., TPV Technology Ltd., TPV International (USA), Inc., and Trend Smart
11 America, Ltd. (collectively, “TPV”), Innolux Corp., and Innolux USA Inc.
12 (collectively, “Innolux”), AmTRAN Technology Co., Ltd., and AmTRAN Logistics,
13 Inc. (collectively, “AmTRAN”), and Newegg, Inc. (“Newegg”) (collectively,
14 “Defendants”), by and through their respective counsel, will and hereby do submit
15 their motion for leave to file a supplemental claim construction response.

16 This Motion is made following the conference of counsel pursuant to L.R. 7-3,
17 which took place on February 29, 2024 and again on March 7, 2024, and subsequent
18 communications between the parties. Polaris PowerLED Technologies, LLC
19 (“Polaris” or “Plaintiff”) indicated it opposes the relief requested herein.

1 **I. INTRODUCTION**

2 Defendants respectfully request leave to file a supplemental response and
 3 supporting declaration regarding the claim terms “staggered PWM brightness control
 4 signals” / “staggered pulse with moduled (PWM) brightness control signals.” Leave
 5 is warranted because Polaris raised new arguments for the first time in its responsive
 6 claim construction brief that should have been raised in its opening brief. Defendants’
 7 short response will provide useful context, provide notice to Polaris of Defendants’
 8 response and supporting evidence, and allow for a more orderly *Markman* hearing.

9 **II. GOOD CAUSE EXISTS FOR ALLOWING DEFENDANTS’
 10 SUPPLEMENTAL BRIEFING**

11 In its responsive claim construction brief, Polaris presented a new argument
 12 that the ’148 Patent’s disclosure of “staggered” signals allows for signals which “can
 13 be staggered in time and have the same duty cycle ***but have different frequencies.***”
 14 *See* Dkt. 72-1 at p. 4 (emphasis added). On this basis, Polaris argues that Defendants’
 15 construction of “staggered,” which states that the “staggered” signals are “identical”
 16 but out of phase, is incorrect, because Polaris alleges the signals can vary not just in
 17 phase, but in frequency. That argument is based on a fundamental misunderstanding
 18 of the claims and their recitation of the relevant signals as “out of phase.”

19 Because Polaris first presented this argument in its responsive brief, Defendants
 20 now seek leave to file a short supplemental response and supporting expert
 21 declaration. As demonstated by the attached Appx. A (proposed supplemental
 22 response and supplemental declaration with exhibits), Defendants seek to submit only
 23 limited argument and relevant evidence and testimony showing that to be “out of
 24 phase” as the signals in the claims are recited to be, the signals must “hav[e] the same
 25 frequency and waveshape” and thus cannot, as Polaris contends, have different
 26 frequencies.

27
 28

1 There is good cause here for the Court to allow Defendants to submit their
2 proposed supplemental brief and declaration. *See* N.D. Cal. Patent Local Rule 1-3.¹
3 Courts have the discretion to allow supplemental claim construction briefing and
4 arguments as needed. *See, e.g., Power Integrations, Inc. v. ON Semiconductor Corp.,*
5 *et al.*, Case No. 5:16-cv-06371, Dkts. 181, 185 (N.D. Cal. Sept. 17, 2018) (granting
6 supplemental claim construction where plaintiff raised new arguments in an *inter
partes* review of an asserted patent after claim construction briefing had closed); *see*
7 *also Uniloc 2017, LLC v. HTC America, Inc.*, Case No. 2:18-cv-1732-RSM, Dkts. 57,
8 64 (W.D. Wa. July 27, 2020) (same). Doing so provides for a more orderly process
9 at any subsequent hearing, and will give notice to Polaris regarding Defendants'
10 response and supporting evidence.

12 **III. CONCLUSION**

13 For the foregoing reasons, Defendants respectfully request leave to file the
14 attached supplemental response and supporting declaration.

15

16

17

18

19

20

21

22

23

24

25

26

27

28 ¹ The Court adopted the “substance of the Northern District of California’s Local
Patent Rules” in its Notes re August 7, 2023 Scheduling Conference. Dkt. 51 at 2.

1 Dated: March 7, 2024

/s/ *Zachariah Summers*

2 Zachariah Summers

3 zachsummers@quinnmanuel.com

4 QUINN EMANUEL URQUHART

& SULLIVAN, LLP

5 865 S. Figueroa St., 10th Floor

6 Los Angeles, California 90017

7 Telephone: (213) 443-3000

8 Facsimile: (213) 443-3100

9 Richard W. Erwine

10 richarderwine@quinnmanuel.com

11 QUINN EMANUEL URQUHART

& SULLIVAN, LLP

12 51 Madison Ave., 22nd Floor

13 New York, NY 10010

14 Telephone: (212) 849-7000

15 Facsimile: (212) 849-7100

16 Yunzhi L. Lin

17 leonlin@quinnmanuel.com

18 QUINN EMANUEL URQUHART

& SULLIVAN, LLP

19 1200 Abernathy Road, Suite 1500

20 Atlanta, GA 30328

21 Telephone: (404) 482-3502

22 Facsimile: (404) 681-8290

23 *Attorneys of Record for VIZIO, Innolux*
24 *Defendants, AmTRAN Defendants, and*
25 *Top Victory Electronics Defendants*

26 /s/ *Theodore J. Angelis*

27 Theodore J. Angelis

28 theo.angelis@klgates.com

1 Jay C. Chiu
2 jay.chiu@klgates.com
3 Elizabeth Weiskopf
4 elizabeth.weiskopf@klgates.com
5 K&L GATES LLP
6 925 Fourth Avenue
7 Suite 2900
8 Seattle, Washington 98104-1158
9 Tele: 206 623-7580
10 Fax: 206 623-7022

11
12 *Attorneys of Record for Hon Hai*
13 *Defendants*

14 /s/ Bethany M. Stevens
15 Bethany M. Stevens
16 bstevens@wscllp.com
17 Hannah L. Cannom
18 hcannom@wscllp.com
19 WALKER STEVENS CANNOM LLP
20 500 Molino Street, Suite 118
21 Los Angeles, California 90013
22 Tel: 213 337-4551/Fax: 213 406-4906

23
24 *Attorneys of Record for Defendant*
25 *Newegg, Inc.*

ATTORNEY ATTESTATION

2 I, Zachariah Summers, am the ECF User whose ID and password are being
3 used to file this stipulation. In compliance with Local Rule 5-4.3.4, I hereby attest
4 that all other signatories listed, and on whose behalf the filing is submitted, concur
5 in the filing's content and have authorized the filing.

7 | Dated: March 7, 2024

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
/s/ *Zachariah Summers*
Zachariah Summers
zachsummers@quinnemanuel.com
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3100
Facsimile: (213) 443-3000

CERTIFICATE OF COMPLIANCE

2 The undersigned, counsel of record for VIZIO, AmTRAN Defendants, Top
3 Victory Electronics Defendants, and Innolux Defendants, certifies that this brief
4 contains 465 words which complies with the word limit of L.R. 11-6.1 in the filing's
5 content and have authorized the filing.

7 | Dated: March 7, 2024

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
/s/ *Zachariah Summers*
Zachariah Summers
zachsummers@quinnemanuel.com
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3100
Facsimile: (213) 443-3000

PROOF OF SERVICE

2 I, Yunzhi Lin, hereby certify that on March 7, 2024, I electronically filed
3 the foregoing document, **DEFENDANTS' MOTION FOR LEAVE TO FILE**
4 **SUPPLEMENTAL CLAIM CONSTRUCTION RESPONSE**, with the Clerk
5 of Court using the CM/ECF System which will send notification to all counsel of
6 record.

10

/s/ *Yunzhi Lin*
Yunzhi L. Lin
leonlin@quinnmanuel.com
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
1200 Abernathy Road, Suite 1500
Atlanta, GA 30328
Telephone: (404) 482-3502
Facsimile: (404) 681-8290